

*These notes refer to the Communications Act 2003
(c.21) which received Royal Assent on 17 July 2003*

COMMUNICATIONS ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5: Competition in Communications Markets

Chapter 1: Functions of OFCOM under Competition Legislation

Section 372: Application of the Competition Act 1998 to news provision

788. This section amends section 194A of the Broadcasting Act 1990. Under that section, the Secretary of State may declare that any provisions in agreements between regional Channel 3 licence holders for the appointment of the Channel 3 news provider are either not anti-competitive or, if anti-competitive, are proportionate to the objectives being achieved. The effect of such a declaration is that the Chapter I prohibition in the Competition Act 1998 (referred to above) does not apply to those provisions and the OFT cannot use its powers under Chapter 3 of Part 1 of that Act to investigate the agreement. The Secretary of State is obliged to consult the OFT before making such declarations and to notify the OFT after making such declarations.
789. This section amends the references in section 194A of the Broadcasting Act 1990 to the OFT to refer to both the OFT and to OFCOM. This reflects the concurrent jurisdiction of the OFT and OFCOM under Part 1 of the Competition Act 1998 in relation to communications matters.
790. Paragraphs 56 and 57 of Schedule 18 (transitional provisions) provide that from the date on which sections 370 and 371 come into force, anything done by the Director General of Telecommunications under the Enterprise Act 2002 or the Competition Act 1998 which OFCOM would, under those provisions, have the power to do in the future, will be taken to have been done by OFCOM. Anything else will, from the date of entry into force, be taken to have been done by the OFT.